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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

MARK KLEIMAN,

Plaintiff,

v.

UNITED STATES DEPARTMENT
OF EDUCATION, OFFICE OF THE
INSPECTOR GENERAL,

Defendants.

) Case No. 2:24-cv-6051

)

) **COMPLAINT FOR DECLARATORY**
) **AND INJUNCTIVE RELIEF FOR**
) **VIOLATION OF THE FREEDOM OF**
) **INFORMATION ACT**

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) **5 U.S.C. § 552, et. seq.**

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PLAINTIFF MARK KLEIMAN, by and through his undersigned attorneys, alleges as
follows:

INTRODUCTION

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2 1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C.
3 § 552, for injunctive and other appropriate relief and seeking the disclosure and release of agency
4 records improperly withheld from Plaintiff Mark Kleiman by Defendant Department of Education,
5 and its components within the Office of the Inspector General in the Department of Education.

6 2. Student loan debt, especially debt resulting from fraudulent for-profit companies is
7 a matter of national concern. Currently there is over \$1.62 **trillion** in federal student loan debt.
8 Veteran’s educational benefits are also a national concern, since they amounted to \$10.8 billion in
9 FY 2023 alone.

10 3. Plaintiff is investigating likely fraud at the Los Angeles Film School, (LAFS) which
11 receives over \$60 million per year in federally insured student loans and over \$19 million in
12 veterans’ financial aid funds.

13 4. The records sought are important and newsworthy. Plaintiff believes that LAFS
14 knowingly misinformed and misled the Department of Education before, during, and after an
15 investigatory site visit, and that had the true facts been known the Department would have
16 terminated LAFS’ eligibility to participate in the federally insured student loan program, and would
17 have demanded that LAFS repay tens of millions of dollars it improperly received through that and
18 other related programs.

19 5. More than sixteen months ago Plaintiff requested documents relating to a 2017 site
20 visit the Department conducted at the Los Angeles Film School (LAFS) in Los Angeles, California.
21 Plaintiff’s request specifically referenced Program Review Report (PRCN 2017-3-09-29603) which
22 was issued on February 13, 2018. Plaintiff also specifically requested a Program Review Settlement
23 Agreement with the Los Angeles Film School that was executed on October 15, 2020.

24 6. Although a very limited number of records was requested on March 28, 2023, the
25 Department has refused to turn over the records.

26 7. This FOIA action is necessary because the refusal to produce the records is a
27 constructive denial, which is improper and a violation of FOIA.

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8. FOIA “focuses on the citizens’ right to be informed about‘ what their government is up to,” by requiring the release of “[o]fficial information that sheds light on an agency’s performance of its statutory duties.” *DOJ v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 750, 773 (1989) (citation omitted). “[D]isclosure, not secrecy, is the dominant objective” of FOIA. *Dept. of Interior v. Klamath Water Users Protective Ass’n*, 532 U.S. 1, 8, (2001) (internal quotation marks and citations omitted).

PARTIES

9. Plaintiff Mark Kleiman is a United States citizen and resident of the State of California. He has a decades long history of opposing fraudulent proprietary school practices and defending students and whistleblowing employees who have been victimized by these practices. He has won a \$4.2 million judgement against a for-profit school chain for just fourteen students it had victimized in Los Angeles. He collaborated with the California Attorney General’s office to force another national for profit school chain to repay money to the State of California. He has worked with journalists to expose these practices, has himself written on this subject and has testified in at least one case involving proprietary school fraud.

10. Defendant Department of Education (ED) is a Department of the Executive Branch of the United States Government and is an “agency” within the meaning of 5 U.S.C. §552(f). The Office of the Inspector General (OIG) is a component within Defendant ED.

JURISDICTION AND VENUE

11. This Court has subject-matter jurisdiction over this action and personal jurisdiction over the parties under 5 U.S.C. § 552(a)(4)(B), 5 U.S.C. § 701-706, and 28 U.S.C. § 1331.

12. Venue in the Central District of California is proper under 5 U.S.C. § 552(a)(4)(B) as Plaintiff’s FOIA request to ED occurred within the City and County of Los Angeles. For the same reason, venue also is proper under 28 U.S.C. § 1391(e).

FACTS

13. Through a FOIA request that was electronically transmitted to ED’s FOIA web page Plaintiff requested access to and copies of Program Review Report (PRCN 2017-3-09-29603) which

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1 was issued on February 13, 2018 and the Program Review Settlement Agreement with the Los
2 Angeles Film School that was executed on October 15, 2020.

3 14. Specifically, Plaintiff requested:

4 All documents regarding PRCN 2017-3-09-29603 including but not
5 limited to:

6 1) PRCN 2017-3-09-29603 itself;

7 2) Correspondence to or from Los Angeles Film School or its
8 counsel;

9 3) Payments or repayments or waiver of claims by Los Angeles
10 Film School, Full Sail University, or any other entity relating to or
11 arising from PRCN 2017-3-09-29603

12 4) Any documents reflecting or evidencing negotiations for or
13 settlement of or release of claims by the Department of Education
14 relating in any way to PRCN 2017-3-09-29603

15 Date range: 01/01/2017 – 03/28/2023

16 15. On April 25, 2023 the ED FOIA Manager wrote back to Plaintiff identifying his
17 request with the file number 23-0185-F, and stating that the “request was forwarded to the
18 appropriate office(s) within the Department for any responsive documents they may have.”

19 16. No documents have been forthcoming despite the fact that Plaintiff had, through the
20 office of a member of the United States House of Representatives, made several requests for the
21 documents. Plaintiff has also emailed the ED official identified in the FOIA Manager’s letter.

22 17. More than sixteen months have elapsed since Plaintiff filed his request. Because ED
23 has not responded ED is deemed to have exhausted his administrative remedies with respect to the
24 Request under 5 U.S.C. § 552(a)(6)(C)(i).

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FIRST CAUSE OF ACTION

Violation of FOIA

18. ED and ED OIG have a legal duty under FOIA to promptly make records available where, as here, it has not claimed any basis for withholding them. The refusal to make them promptly available violates FOIA 5 U.S.C. §552(a)(3)(A) and (a)(6)(A)(ii) and the applicable regulations promulgated thereunder.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests this Court award him the following relief:

- A. Declare that ED and ED/OIG have violated FOIA in failing to respond to Plaintiff's FOIA Request;
- B. Order ED and ED / OIG to immediately disclose the requested records to Plaintiff and enter an injunction prohibiting each Defendant from continuing to withhold the requested records;
- C. Award Plaintiff his reasonable costs and attorney's fees; and
- D. Grant such other and further relief as the Court may deem just and proper.

DATE: July 18, 2024

KLEIMAN / RAJARAM

By: 

POOJA RAJARAM

Attorneys for Plaintiff
MARK KLEIMAN